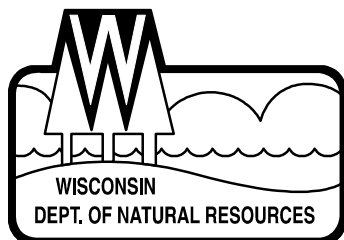


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State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Statement of Jon Heinrich
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February 25, 2004
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USEPA's Proposed Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Interstate Air Quality Rule - January 30, 2004, 69 Federal Register 4566) and Proposal to Control Emissions of Hazardous Air Pollutants from Utilities (January 30, 2004, 69 Federal Register 4652)

Good morning. My name is Jon Heinrich and I work for the Wisconsin Department of Natural Resources in their Air Management Program. Thank you for the opportunity to provide comments on these proposals.

Comments on the Interstate Air Quality Rule

Regional control of fine particulate matter and ozone is critically important for eastern Wisconsin where we will continue to have areas that have not achieved National Ambient Air Quality Standards even after we have implemented the final reduction requirements proposed in the Interstate Air Quality Rule. When EPA designates 8-hour ozone nonattainment areas this spring, 38% of Wisconsin's population will be living in an ozone nonattainment area. We have been working over 20 years to bring ozone air quality in Wisconsin to an acceptable level. Interstate transport of ozone and ozone precursors have plagued our ability to meet air quality standards. We urge EPA to develop a regulation that limits transported pollutants as much as possible to help us protect the health of Wisconsin's citizens and improve the states' economic health as well. The proposed Interstate Air Quality Rule can be improved to help us achieve these goals.

1. Too little, too late? – EPA's proposal is a good first step, but we have concerns with the timing of emission reductions and the stringency of control. Timing is particularly important issue because many areas in the eastern United States will have attainment dates for ozone and PM2.5 between 3 and 6 years from now. The proposed transport rule will have little effect in achieving attainment. For example, Wisconsin's Sheboygan County is an ozone

nonattainment area principally because of interstate transport. This April we expect Sheboygan County to be designated as a moderate nonattainment area for the 8-hour ozone standard with an attainment date in the spring of 2010. Therefore, we will need to rely on local controls or control programs limited to the Lake Michigan region in effect in 2007, 2008, or 2009 to demonstrate attainment with the ozone standard. This doesn't make sense for a nonattainment area dominated by long-range transport of ozone and its precursors.

Stringency of control in the proposed rule is another concern. Wisconsin is one of the states that will have nonattainment areas even after the implementation of the second phase reductions proposed in the rule. We will find it difficult to get additional emission reductions from electrical generating units after the transport rule is promulgated especially given the structure of the trading program. In addition to this difficulty, federal preemption on emission controls for highway vehicles and off-road engines leaves few remaining choices for the emission reductions that will still be necessary, particularly in Wisconsin where we already have an inspection maintenance program, stage 2 vapor recovery and Reasonably Available Control Technology on our stationary sources. We would encourage EPA to "leave nothing on the table" when considering highly cost effective controls in the final Interstate Transport Rule.

2. Timing is important – EPA has made a commitment to finalize their rulemaking sometime between December 2004 and July 2005. It is critical that EPA promulgates an interstate transport rule as soon as possible. With state ozone plans due in May 2007, many states, including Wisconsin, will need to complete their attainment demonstration and air quality modeling by about November 2005. This would leave only 18 months to develop rules and a state implementation plan submittal which is not much time considering the expected complexity of this attainment demonstration. For a timely submittal, we must know what reductions we can expect from the Interstate Air Quality Rule as early as possible to complete our analyses and develop an attainment demonstration including the necessary agreements with our neighboring states.
3. Inter-pollutant trading is not appropriate – EPA has requested comment on inter-pollutant trading in this proposal. Wisconsin is opposed to inter-pollutant trading. To have confidence in our attainment demonstration for ozone we need certainty in the emission reductions from states that contribute to nonattainment in Wisconsin. Inter-pollutant trading eliminates the certainty we need and to compensate we would likely be forced to provide additional control of local sources. Inter-pollutant trading also further complicates emission allocations and compliance determinations.
4. Industrial boilers are significant sources – EPA has previously identified non-electrical generating units (i.e. industrial boilers) as being capable of having highly cost-effective nitrogen oxide controls. EPA is not proposing nitrogen oxide emission reductions for non-electrical generating units in this proposal because the cost-effectiveness of integrating nitrogen oxide and sulfur dioxide controls could not be demonstrated. However we believe that this proposal, at a minimum, should include non-electrical generating unit nitrogen oxide controls in the states required to reduce emissions of ozone precursors.

5. Using banked emission allowances - Analyses by the Lake Michigan Air Directors Consortium indicates that the use of banked allowances significantly delays the air quality benefits of the Interstate Air Quality Rule and interferes with attainment of the National Ambient Air Quality Standards. We urge EPA to retire any remaining banked allowances that electrical generating units hold under Title IV of the Clean Act at the start of the first phase of the Interstate Air Quality Rule.

Comments on Proposal to Control Emissions of Hazardous Air Pollutants from Utilities

The Wisconsin DNR appreciates EPA's efforts to reduce mercury from coal fired electric utility plants and nickel from oil fired utility plants by proposing these regulations. Mercury, especially, continues to be a great concern to us because of the health risk to residents who consume fish and the potential economic consequences caused by fish consumption advisories that threaten Wisconsin's strong tradition of recreation and tourism activities. Federal regulations to control emissions of mercury from electric utilities are indeed necessary because mercury is a persistent bioaccumulative toxic substance that can be transported and deposited at great distances. However, we have serious concerns with the mercury regulations that EPA is proposing and believe that either regulation as currently written will compromise public health. The main issues of concern include the proposed national trading program, delay in requiring installation of mercury control equipment, and the lack of stringency of mercury reductions. The Wisconsin DNR strongly urges EPA to address all of these issues and promulgate a regulation that achieves more mercury emission reductions sooner from the electric utility sector.

Because of elevated mercury levels, Wisconsin is one of the 45 states that have issued fish consumption advisories. Since the 1970's, Wisconsin has found that mercury in fish tissues exceeds EPA's recommended safe levels in more than 1,200 water bodies we have sampled. Mercury contamination continues to be one of the greatest challenges to Wisconsin waters. Addressing this problem is important because frequently eating mercury-contaminated fish increases risks of health problems. Nearly all of Wisconsin's 15,000 lakes and 57,000 miles of rivers and streams are under a general fish consumption advisory that recommends that people, particularly pregnant women and young children, limit the number of some fish species they eat because of elevated mercury levels. To reduce the amount of mercury entering the environment and ultimately help protect public health, the Wisconsin DNR has taken action and developed regulations to limit mercury emissions from coal fired electric utility boilers --- our largest unregulated source.

Neither the MACT or NSPS proposal is adequate. Neither proposal provides the necessary federal government action to move control technology installation forward. Furthermore these proposals authorize trading and banking programs that would result in sources in and outside the state avoiding mercury emission reductions that could otherwise be achieved. The health of our citizens is compromised because timely and significant mercury emission reductions that could otherwise be achieved are delayed.

Thank you for the opportunity to provide comments on these proposals. In addition to the comments presented here today, the Wisconsin DNR also intends to submit more detailed written comments by the March 30, 2004, deadline.

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